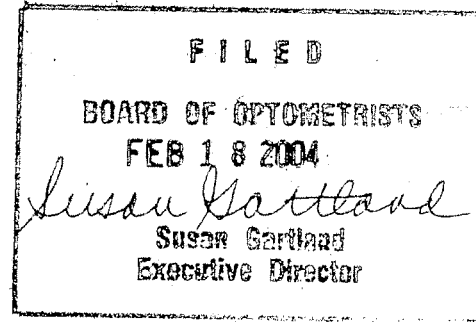


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF OPTOMETRISTS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

Administrative Action

KENNETH HOROWITZ, O.D. :
License No. 27OA 00297500 :

FINAL ORDER
OF DISCIPLINE

TO PRACTICE OPTOMETRY :
IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Optometrists ("the Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Respondent is an optometrist in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On the 30th day of June, 2003, the Board of Optometrists initiated a random audit of renewal applications for the 2003-2005 period, asking licensees to submit proof with regard to the satisfaction of continuing education requirements for the biennial renewal period, i.e. fifty (50) approved credit hours which included twenty-five (25) credits in general optometric education and

twenty-five (25) credits in courses or programs classified as therapeutic pharmaceutical agents ("TPA").

3. Respondent failed to submit proof of having completed fifty (50) credit hours of continuing education, he submitted proof of completing 20 credits which is insufficient to satisfy the continuing education requirement because it falls short of the requisite fifty (50) approved credit hours pursuant to N.J.S.A.: 12-9.3 and N.J.A.C. 13:38-7.3.

CONCLUSIONS OF LAW

1. Respondent has not satisfied the requirements of N.J.S.A. 45:12-9.3 with regard to completion of the appropriate number of approved continuing education credit hours within the statutory time frame as he is short thirty (30) of the continuing education credits that he was required to obtain.

2. Respondent is subject to sanctions pursuant to N.J.S.A. 45:1-21(h), failure to comply with the provision of an act or regulation administered by the Board, which constitutes grounds for suspension or revocation of any certificate, registration or license, and grounds for sanction pursuant to N.J.S.A. 45:1-25.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice Optometry in the State of New Jersey was entered on October 15, 2003 and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons

why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. On November 14, 2003 the respondent submitted correspondence to the Board expressing his shock in receiving the provisional order which advised that he could not satisfy the entire 50 continuing education credits with ground round courses solely, as the Board's regulations only allowed a licensee to obtain a maximum of 20 continuing education credits in ground rounds. Respondent argued that the Board had accepted ground rounds for the full amount of continuing education credits in previous renewal periods, and that he was not notified in a timely manner of the changes to the continuing education regulation. Therefore, he requested that the Board withdraw the \$5000 penalty, allow him six months to obtain the balance of the outstanding credits and provide him with a written list of acceptable courses. Upon a review of respondent's correspondence, the Board noted that the changes to the continuing education regulations became effective on April 1, 2002 and the Board sent the published regulations to all licensees at the address of record. Thus, the respondent had ample time to familiarize himself with the continuing education requirements in order to comply within the renewal period as required. The Board opined that it is the responsibility of the licensee to be knowledgeable of the statutes and regulations that apply to the practice of optometry.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The credits for continuing education must be obtained biennially by each holder of an active license during the period preceding the established license renewal date as required by N.J.S.A. 45:12-9.3. Thus, the respondent must have completed his fifty (50) credits by April 30, 2003. The Board determined that the respondent failed to submit proof of additional credits on a timely basis as the proofs presented indicated that respondent did not satisfy the total amount of continuing education credits within the preceding license renewal period as only 20 credits were obtained within the

renewal period. Thus, the respondent must submit proof of satisfactory completion of the additional thirty (30) credits. Accordingly, the Board voted to affirm the penalty in the amount of \$5000 and to permit the respondent one hundred and twenty (120) days to complete the outstanding continuing education credits.

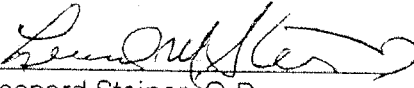
ACCORDINGLY, IT IS on this 18th day of February, 2004

ORDERED that:

1. Respondent's must submit proofs of satisfaction of the thirty (30) credits required in continuing education for the 2003-2005 biennial registration. All credits submitted as a result of the Provisional Order are **NOT** to be used to renew respondent's license for the 2005-2007 renewal period. Thus, the Board will not suspend the license of the respondent unless the necessary proofs are not submitted within one hundred and twenty (120) days of the receipt of the final order. If the proofs are not timely submitted, the respondent's license will be suspended immediately.

2. Respondent shall pay a civil penalty of five thousand dollars (\$5000.00) within thirty days of the receipt of this order pursuant to N.J.S.A. 45:1-25, for violation of N.J.S.A. 45:12-9.3, N.J.A.C. 13:38-4.5 and N.J.S.A. 45:1-21(h), by means of a check or money order, payable to the New Jersey Board of Optometrists, to the attention of Susan Gartland, Executive Director, at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07102. Should respondent fail to remit the penalty, the Board may file a certificate of debt for the balance with the Superior Court of New Jersey.

NEW JERSEY STATE BOARD OF OPTOMETRISTS

By 
Leonard Steiner, O.D.
Board President